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Attorney for plaintiff
Laltitude, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LALTITUDE, LLC

Case No. 2:17-cv-04586

Plaintiff,

**COMPLAINT FOR PATENT
INFRINGEMENT, TRADEMARK
INFRINGEMENT AND
INJUNCTIVE RELIEF**

v.

AMAZON.COM, Inc. and DOES 1
through 10, inclusive,

DEMAND FOR JURY TRIAL

Defendants.

Comes now plaintiff, by and through their
attorneys, hereby files this Complaint for Patent
Infringement, Trademark Infringement and Injunctive
Relief and demands a jury trial and complains of
defendants and each of them, as follows:

JURISDICTION AND VENUE

1. This Court has original subject matter
jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a)
because this action arises under the patent laws of the

1 United States, including 35 U.S.C. § 271, et seq.

2 2. This Court has original subject matter
3 jurisdiction over the claims in this action which
4 relate to trademark counterfeiting, infringement,
5 dilution, false designation of origin, and false
6 description pursuant to the provisions of sections
7 34(a) and 39 of the Lanham Act, 15 U.S.C. §1116(a), and
8 1121(a), and 28 U.S.C. §1331, 1338 (a) and (b).

9 3. This Court has supplemental jurisdiction over
10 the claims in this Complaint which arise under state
11 statutory and common law pursuant to 28 U.S.C. §1367
12 (a), since the state law claims are so related to the
13 federal claims that they form part of the same case or
14 controversy and derive from a common nucleus of
15 operative facts.

16 4. A substantial part of the events and omissions
17 giving rise to the claims herein occurred within this
18 judicial district; venue therefore lies in this
19 district under 28 U.S.C. §1391(b).

20 5. Venue is proper in this district pursuant to 28
21 U.S.C. §§ 1391(b) and (c) and 1400(b).

22

23 **GENERAL ALLEGATIONS**

24 6. At all times relevant herein, Plaintiff
25 Laltitude, LLC ("Laltitude") is a California
26 corporation.

27 7. Plaintiff is informed and believes, and thereon
28 alleges, that Defendant Amazon.com, Inc. ("Amazon") is

1 a corporation duly organized and existing under the law
2 of the State of Delaware, and may be served with
3 process through its registered agent Corporation
4 Service Company at 2711 Centerville Road, Suite 400,
5 Wilmington, DE 19808. Plaintiff is informed and
6 believes, and thereon alleges, that Amazon is, and at
7 all times relevant herein, has been and is doing
8 business in the Central District of California.

9 8. Plaintiff is ignorant of the true names and
10 capacities of defendants sued herein as Does 1 through
11 50, inclusive, and therefore sues said defendants and
12 each of them by such fictitious names. Plaintiff is
13 informed and believes, and thereon alleges, that each
14 of said fictitiously named defendants is responsible in
15 some manner for the occurrences herein alleged, and
16 Plaintiff's damages were the result of the acts or
17 omissions of said defendants and each of them.
18 Plaintiff shall seek leave of the Court to amend this
19 complaint to allege the true names and capacities of
20 said defendants when ascertained.

21 9. Plaintiff is informed and believes, and thereon
22 alleges, that at all times relevant herein, defendants
23 and each said defendant were each other's agents,
24 employees, partners, co-ventures, or representatives.
25 Plaintiff is informed and believes, and thereon
26 alleges, that at all times relevant herein, in
27 performing the acts or omissions herein alleged, that
28 said defendants and each said defendant were acting

1 within the scope of said agency, employment,
2 partnership, co-venture, or representation.

3 **CLAIMS FOR RELIEF**

4 **COUNT I**

5 **UTILITY PATENT INFRINGEMENT OF U.S. PATENT NO.**

6 **D742,359 S**

7 10. Plaintiff hereby repeats and incorporates
8 herein the allegations set forth in the paragraphs
9 above.

10 11. On November 3, 2015, United States Patent No.
11 US D742,359 S (the "'359 Patent") was duly and legally
12 issued for an invention entitled "Bluetooth Shower
13 Speaker" Of a Shower Speaker. Baohua Zhao is the
14 inventor of the '359 Patent, and on February 12, 2016
15 assigned U.S. Patent No. D742,359 S to Laltitude, LLC.

16 The '359 Patent is valid and enforceable. A copy of
17 the '359 Patent an assignment of Patent are attached
18 hereto as "Exhibit A."

19 12. Amazon has infringed and continue to infringe
20 the '359 Patent by manufacturing, using, marketing,
21 selling, offering for sale, and/or importing products
22 covered by the '359 Patent. As a result, Amazon has in
23 the past and continues to infringe directly, by
24 inducement and contributing to the infringement of the
25 Patent. Amazon is liable for infringement of the '359
26 Patent pursuant to 35 U.S.C. §§ 271 and 289.

27 13. Amazon's infringement of Plaintiff's exclusive
28 rights under the '359 Patent has caused great damage

1 and irreparable harm to Plaintiff. Unless enjoined by
2 the Court, Amazon's conduct will continue to cause
3 great, immediate and irreparable harm to Plaintiff,
4 because there is no adequate remedy at law.

5 14. Amazon's infringing acts with respect to the
6 '359 Patent was and is willful under 35 U.S.C. § 284,
7 and this case is "exceptional" under 35 U.S.C. § 284,
8 in that, among other things, Amazon had actual and/or
9 constructive knowledge of the Patent and continued its
10 infringing conduct in disregard of Plaintiff's patent
11 rights.

12 15. This is an exception case entitling Plaintiff
13 to treble damages under 35 U.S.C. § 284, and attorneys'
14 fees and costs incurred in prosecuting this action
15 under 35 U.S.C. § 285.

16 **COUNT II**

17 **TRADEMARK INFRINGEMENT [15 U.S.C. §1114]**

18 16. Plaintiff hereby repeats and incorporates
19 herein the allegations set forth in the paragraphs
20 above.

21
22 17. Plaintiff is the registered Trademark owner of
23 "SB Soundbot" in the United States Patent and Trademark
24 Office ("USPTO") on March 8, 2016, with registration
25 number 4,912.246. True and Correct copies of SB
26 SoundBot 's Registration are attached hereto as Exhibit
27 "B".
28

1 18. Plaintiff's Products have been identified by
2 Plaintiff's trademark SB SoundBot since their inception
3 in 2014.

4 19. The Plaintiff's Trademark, "SoundBot", is
5 fanciful and arbitrary and is associated in the mind
6 of the public with Plaintiff.

7 20. Based on Plaintiff's extensive advertising,
8 sales, and the wide popularity of the Plaintiff
9 Products, the "SoundBot" Trademark has acquired
10 secondary meaning so that any product and advertisement
11 bearing such trademarks is immediately associated by
12 purchasers and the public as being a product of, and
13 affiliated with, Plaintiff.

14 21. Defendants copy or otherwise imitate the
15 SoundBot Trademark in connection with selling,
16 distributing, and advertising Defendants' counterfeit
17 goods of bluetooth shower speaker.

18 22. Defendants' activities set forth herein
19 constitute Defendants' use in commerce of the SoundBot
20 Trademarks.

21 23. Defendants have used the "SoundBot" Trademark
22 without Plaintiff's consent or authorization.
23 Defendants' use, including the sale and distribution of
24 infringing products in interstate commerce, is likely
25 to cause confusion and mistake in the minds of the
26 public, leading the public falsely to believe that
27 Defendants' products emanate or originate from
28

1 Plaintiff, or falsely to believe that Plaintiff has
2 approved, sponsored, or otherwise associated itself
3 with Defendants.

4 24. Defendants' have intentionally used the
5 "SoundBot" Trademarks knowing that such trademark is
6 Plaintiff's exclusive property in connection with the
7 offering for sale, sale, and distribution of
8 counterfeit goods.
9

10 25. Defendant's conduct is intended to exploit the
11 goodwill and reputation associated with the "SoundBot"
12 Trademark.

13 26. Plaintiff has no control over the quality of
14 Defendants' counterfeit merchandise. Because of the
15 very real likelihood of confusion as to the source of
16 Defendants' products, Plaintiff's reputation and
17 valuable goodwill in its trademarks is subject to
18 Defendants' unscrupulous tactics.

19 27. Defendants' activities as set forth herein
20 create the false and misleading impression that
21 Plaintiff has sanctioned, assigned, or authorized
22 Defendants to use the "SoundBot" Trademarks to
23 advertise, manufacture, distribute, appraise, offer for
24 sale, or sell counterfeit products bearing the
25 "SoundBot" Trademarks when Defendants are not so
26 authorized.

27 28. Defendants engage in the aforementioned
28 activity with the intent to confuse and deceive

1 consumers into believing that Defendants, and the goods
2 they sell, are in some way sponsored by, or affiliated
3 with, or associated with, Plaintiff when the Defendants
4 are not.

5 29. Defendants' unauthorized use of the Plaintiff's
6 Trademark, "SoundBot", as set forth herein has resulted
7 in Defendants unfairly benefiting from Plaintiff's
8 advertising and promotion, and profiting from
9 Plaintiff's reputation and its registered trademarks,
10 to the substantial and irreparable injury of ,
11 Plaintiff's Trademarks, and the substantial goodwill
12 represented thereby.

13 30. Defendants' aforesaid acts constitute trademark
14 infringement in violation of section 32 of the Lanham
15 Act, 15 U.S.C. §1114.

16 31. Defendants' acts have caused, and will continue
17 to cause, great and irreparable injury to Plaintiff,
18 and unless such acts are restrained by this Court,
19 Defendants will continue such acts, thereby causing
20 Plaintiff to continue to suffer great and irreparable
21 injury.

22 32. Plaintiff is informed and believes and
23 thereupon alleges that Defendants' infringement is both
24 intentional and egregious.

25 33. Plaintiff has no adequate remedy at law and is
26 suffering irreparable harm and damage as a result of
27 the aforesaid acts of Defendants in an amount thus far
28

1 not determined but believed to be in excess of
2 \$200,000.

3 **PRAY FOR RELIEF**

4 WHEREFORE, Plaintiff prays for the following
5 relief:

- 6 1. For a judgment that Defendants have directly
7 infringed, contributorily infringed, and/or
8 induced infringement of one or more claims of
9 the Patents-in-suit;
- 10 2. For a judgment that Defendants have willfully
11 infringed one or more claims of the Patents-in-
12 suit;
- 13 3. For a judgment that this is an exceptional
14 case, entitling Plaintiffs to treble damages
15 within the meaning of 35 U.S.C. § 284 and to
16 attorneys' fees and costs within the meaning of
17 35 U.S.C. § 285;
- 18 4. For preliminary and permanent injunctions
19 enjoining the aforesaid acts of infringement
20 under 35 U.S.C. § 271, et seq. of Defendants,
21 its officers, agents, servants, employees,
22 subsidiaries and attorneys, and those persons
23 in privity or acting in concert with them,
24 including related individuals and entities,
25 customers, representatives, OEMs, dealers and
26 distributors;
- 27 5. That the Court order that Defendants, their
28 agents, servant, employees, representatives,

1 successors, and assigns, and all person,
2 firms, or corporations in active concert or
3 participation with any of Defendants, be
4 immediately enjoined from:

5 a. directly or indirectly infringing Plaintiff's
6 trademark as described above in any manner including
7 generally, but not limited to, copying, distributing,
8 advertising, selling, and/or offering for sale any
9 merchandise that infringes Plaintiff's trademark
10 including without limitation Defendants Counterfeit
11 and/or Infringing Goods, and specifically distributing,
12 advertising, selling, and/or offering for sale
13 unauthorized copies of the "SoundBot" Trademark and/or
14 the Plaintiff Products of any other unauthorized goods
15 that picture, reproduce, or utilize the likenesses of
16 or which copy or bear a substantial similarity to any
17 of Plaintiff's trademark; or

18
19 b. engaging in any conduct that tends falsely to
20 represent that, or is likely to confuse, mislead, or
21 deceive purchasers, Defendants' customers, and/or
22 members of the public to believe that, the actions of
23 Defendants, the products sold by Defendants, or
24 Defendants themselves are connected with Plaintiff, or
25 are in some way connected or affiliated with Plaintiff;

26 c. affixing, applying, annexing, or using in
27 connection with the manufacture, distribution,
28 advertising, sale, and/of offering for sale or other

1 use of any goods or services, a false description or
2 representation, including words or other symbols,
3 tending to falsely describe or represent such goods as
4 being those of Plaintiff;

5 6. For an award of actual damages, including pre-
6 judgment and post-judgment interest;

7 7. For all costs of suit; and

8 8. For all such other and further relief as the
9 Court may deem just and proper.

10 **DEMAND FOR JURY TRIAL**

11 Under Rule 38(b) of the Federal Rules of Civil
12 Procedure and Local Rule 38-1 of the United States
13 District Court for the Central District of California,
14 Plaintiff, Laltitude, LLC hereby demands a trial by
15 jury of all issues properly triable by jury.

16
17 DATED: 6-21-17

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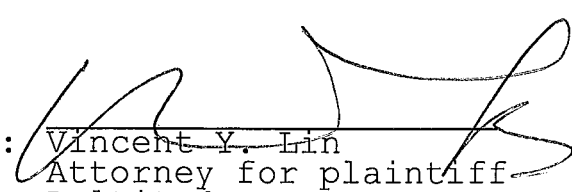
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20 By:  Vincent Y. Lin
21 Attorney for plaintiff
22 Laltitude, LLC
23
24
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26
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28

EXHIBIT “A”

UNITED STATES
PATENT AND TRADEMARK OFFICE

Assignment abstract of title for Application 29477686

Invention title/inventor	Patent	Publication	Application	PCT	International registration
Bluetooth Shower Speaker	D742359		29477686		
Baohua ZHAO	Nov 3, 2015		Dec 25, 2013		

Assignments (1 total)

Assignment 1

Reel/frame	Execution date	Date recorded	Properties	Pages
037730/0616	Nov 25, 2015	Feb 12, 2016	1	2

Conveyance

ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors

ZHAO, BAOHUA

Correspondent

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MONTEREY PARK, CA 91754

Assignee

LALTITUDE LLC
17128 COLIMA ROAD, STE 209
HACIENDA HEIGHTS, CALIFORNIA 91745



US00D742359S

(12) **United States Design Patent**
Zhao

(10) Patent No.: **US D742,359 S**
(45) Date of Patent: **** Nov. 3, 2015**

(54) **BLUETOOTH SHOWER SPEAKER**

(56) **References Cited**

(71) Applicant: **Baohua Zhao, Shenzhen (CN)**

U.S. PATENT DOCUMENTS

(72) Inventor: **Baohua Zhao, Shenzhen (CN)**

(**) Term: **14 Years**

(21) Appl. No.: **29/477,686**

(22) Filed: **Dec. 25, 2013**

(51) LOC (10) Cl. **14-03**

(52) U.S. Cl.

USPC **D14/216**

(58) Field of Classification Search

USPC D14/167, 168, 170-172, 188, 194-196,
D14/204, 207, 209.1, 210-216, 219, 221,
D14/222, 224, 496; 181/143, 144, 147, 148,
181/150, 153, 157, 198, 199; 381/300-303,
381/306, 332, 333, 336, 345, 361-364,
381/386-388; 369/6-12; D10/52, 53,
D10/55-57

CPC B60R 11/0217; G06F 1/1688; H04M 1/03;
H04M 1/035; H04R 1/02; H04R 1/06; H04R
1/021; H04R 1/025; H04R 1/026; H04R
1/028; H04R 1/105; H04R 1/323; H04R
1/403; H04R 1/2803; H04R 1/2834; H04R
5/02; H04R 7/20; H04R 9/06; H04R 9/025;
H04R 2201/021; H04R 2400/00; H04R
2400/07; H04R 2499/11; H04R 2499/13;
H04R 2499/15; H04S 3/00; H04S 7/30

See application file for complete search history.

D432,516 S	*	10/2000	Chen	.....	D14/170
D437,842 S	*	2/2001	Chen	D14/194
D474,169 S	*	5/2003	Fletcher	D14/159
D495,679 S	*	9/2004	Chen	D14/171
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D602,911 S	*	10/2009	Wang et al.	D14/216
D635,956 S	*	4/2011	Zadro	D14/197
D641,342 S	*	7/2011	Chang	D14/240
D643,022 S	*	8/2011	Hou	.....	D14/216
D651,216 S	*	12/2011	Pail	.....	D14/496
D671,528 S	*	11/2012	Fathollahi	.....	D14/216
D682,805 S	*	5/2013	Rath	.....	D14/149
D698,753 S	*	2/2014	Yiu et al.	.....	D14/216
D719,138 S	*	12/2014	Schwartz	.....	D14/216

* cited by examiner

Primary Examiner — Keli L Hill

(74) Attorney, Agent, or Firm — Novoclaims Patent Services
LLC; Mei Lin Wong

(57) **CLAIM**

The ornamental design for a bluetooth shower speaker, as
shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a bluetooth shower speaker
showing my new design.

FIG. 2 is a front view thereof.

FIG. 3 is a rear view thereof.

FIG. 4 is a right end view thereof.

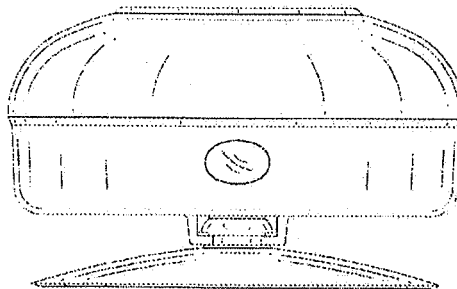
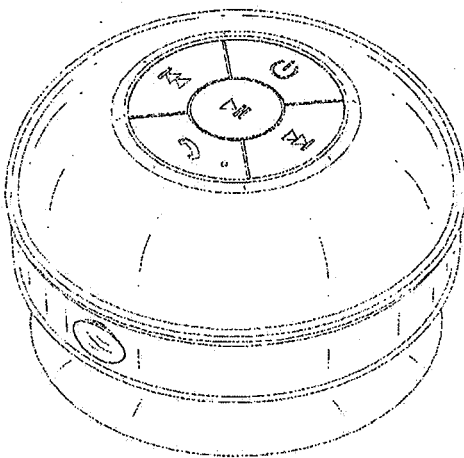
FIG. 5 is a left end view thereof.

FIG. 6 is a top view thereof; and,

FIG. 7 is a bottom view thereof.

The broken lines in FIG. 7 depict a portion of the bluetooth
shower speaker that forms no part of the claimed design.

1 Claim, 7 Drawing Sheets



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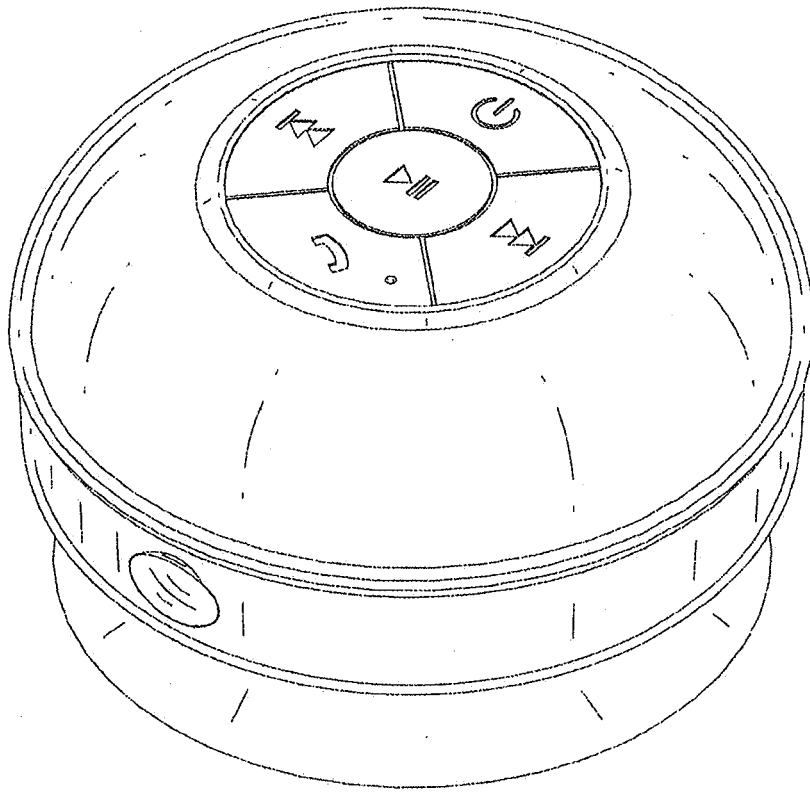


FIG.1

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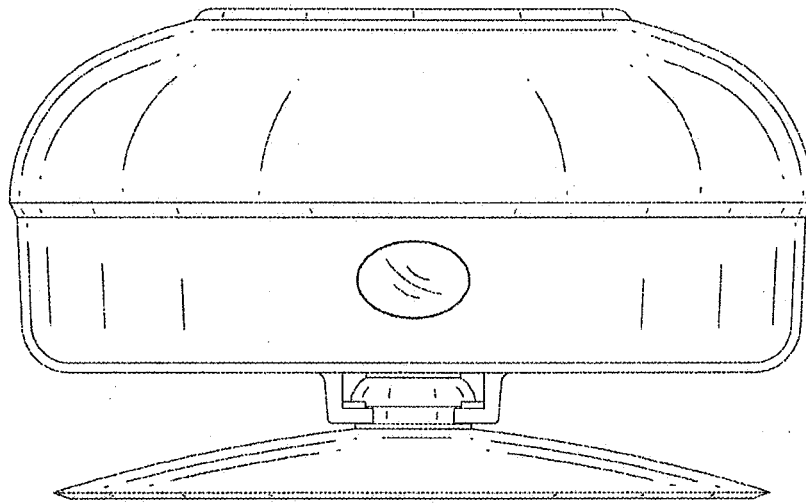


FIG.2

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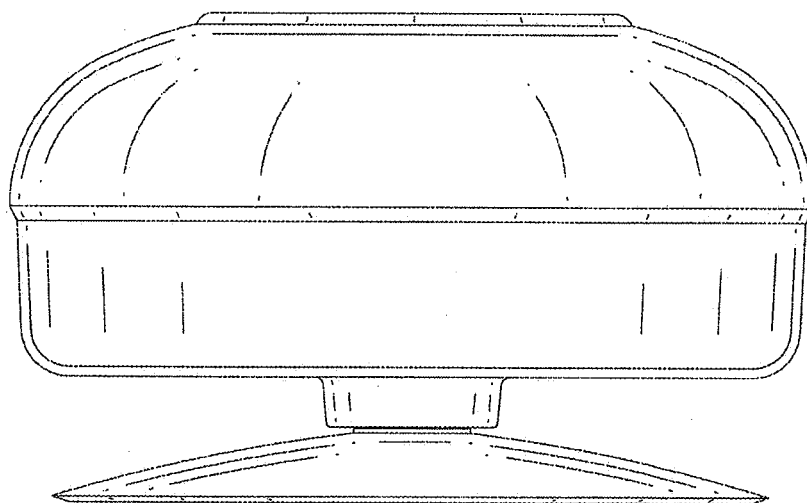


FIG.3

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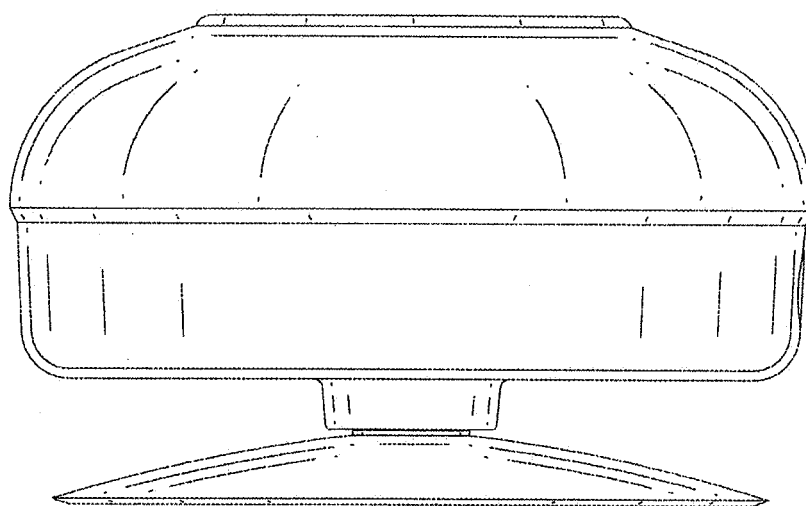


FIG.4

U.S. Patent

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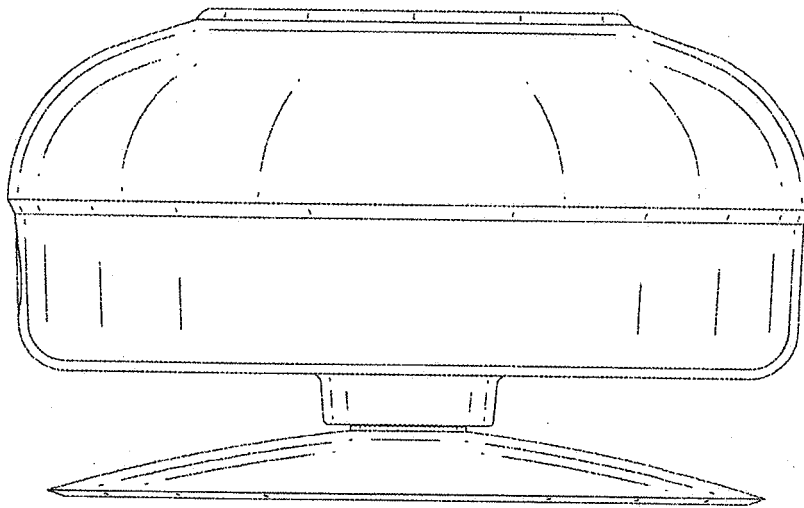


FIG.5

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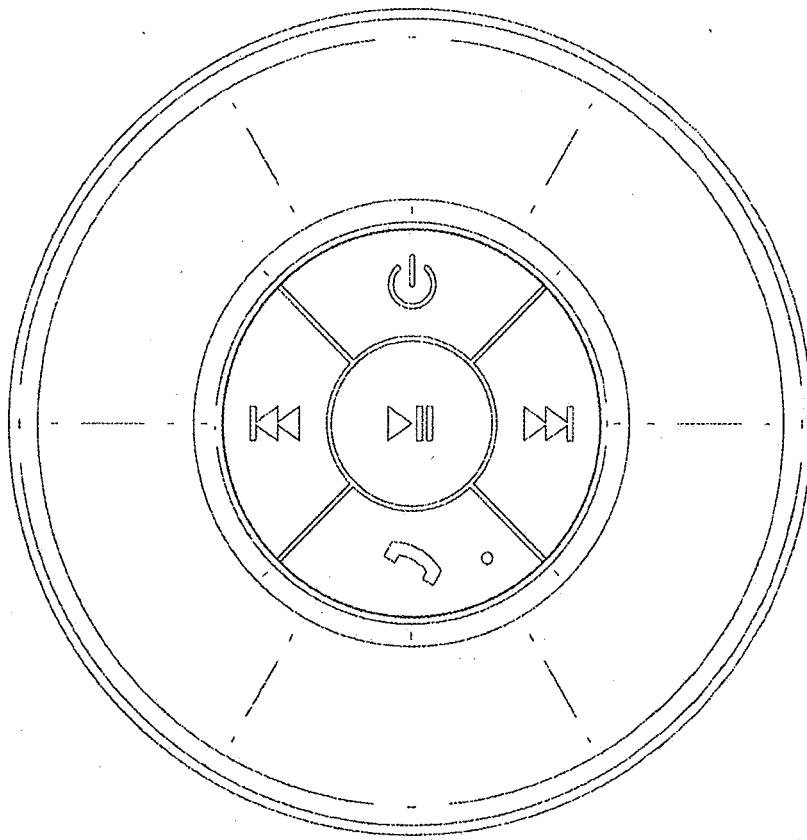


FIG.6

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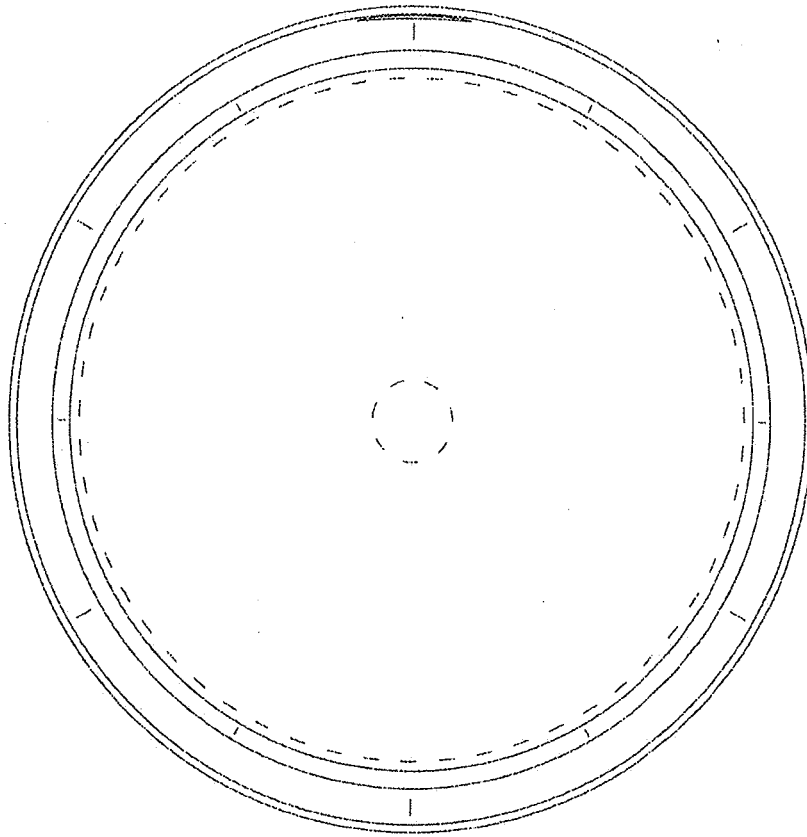


FIG.7

EXHIBIT “B”

United States of America

United States Patent and Trademark Office

S
SoundBot

Reg. No. 4,912,246

Registered Mar. 8, 2016

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

LALITUDE (CALIFORNIA LIMITED LIABILITY COMPANY)
17128 COLIMA RD #209
HACIENDA HEIGHTS, CA 91745

FOR: CARRYING CASES, HOLDERS, PROTECTIVE CASES AND STANDS FEATURING POWER SUPPLY CONNECTORS, ADAPTERS, SPEAKERS AND BATTERY CHARGING DEVICES, SPECIALLY ADAPTED FOR USE WITH HANDHELD DIGITAL ELECTRONIC DEVICES, NAMELY, CELL PHONES, MP3 MP4 PLAYERS, PERSONAL DIGITAL ASSISTANTS, GPS, TABLETS, E-READERS, LAPTOPS, DIGITAL MUSIC AND MOVIE PLAYERS; EARPHONES AND HEADPHONES; LOUDSPEAKERS, CAR SPEAKER IN THE NATURE OF LOUDSPEAKERS FOR AUTOMOTIVE AUDIO SYSTEMS AND CAR AUDIO SPEAKERS; HEADPHONES, MICROPHONES AND CD PLAYERS; MUSIC HEADPHONES; AUDIO SPEAKERS; COMPUTER PERIPHERALS, NAMELY, KEYBOARDS, MICE, TRACKBALLS, NETWORK TRANSMITTER OF ELECTRONIC SIGNALS, USB HUB, AND WIRELESS ELECTRONIC CONTROLLERS ALL FOR USE WITH CONSUMER ELECTRONIC EQUIPMENT, NAMELY, CELL PHONES, LAPTOPS, DESKTOP COMPUTERS, AND TABLETS; COMPUTER SOFTWARE FOR REPRODUCING, PROCESSING AND STREAMING AUDIO, VIDEO AND MULTIMEDIA CONTENT; COMPUTER SOFTWARE FOR CONTROLLING THE OPERATION OF AUDIO AND VIDEO APPARATUS AND FOR VIEWING, SEARCHING AND/OR READING SOUND, VIDEO, TELEVISION, FILMS, PHOTOGRAPHS AND OTHER DIGITAL IMAGES AND OTHER MULTIMEDIA CONTENT; DIGITAL ELECTRONIC APPARATUS, NAMELY, COMPUTER HARDWARE FOR RECORDING, CLASSIFYING, TRANSMITTING, RECEIVING, PROCESSING, READING AND VIEWING, AND EXAMINING TEXTS, DATA, IMAGES, AUDIO AND VIDEO FILES AND COMPUTER SOFTWARE FOR USE IN AUDIO CONTROL MANAGEMENT; AUDIO, VIDEO AND RADIO RECEIVERS; AUDIO AND VIDEO RECORDERS; WIRELESS NETWORK RECEIVERS AND TRANSMITTERS FOR USE WITH COMPUTER, TELEVISION, TABLET, AND CELL PHONES; AUDIO AND VIDEO MEDIA PLAYERS, NAMELY, CD, DVD, MULTIMEDIA AND MP3 PLAYERS; RADIOS; DOCKING STATIONS FOR COMPUTER, CELL PHONE, TABLET, AND MEDIA PLAYERS; ELECTRICAL AND ELECTROMAGNETIC SIGNAL TRANSMITTING, AMPLIFYING, RECEIVING, AND CONVERTING DEVICES, NAMELY, ELECTRIC CABLES, ELECTRIC WIRES, ELECTRICAL CONNECTORS, AND CONTROL DEVICES IN THE NATURE OF DIGITAL MUSIC CONTROLLER FOR USE WITH ELECTRICAL, ELECTRONIC, AND COMPUTER DEVICES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).



Michelle K. Lee

Director of the United States
Patent and Trademark Office

FIRST USE 10-1-2014; IN COMMERCE 10-1-2014.

Reg. No. 4,912,246 THE MARK CONSISTS OF A CAPITAL LETTER "S" INSIDE OF CAPITAL LETTER "B"
FOLLOWED BY A STYLISH PHRASE "SOUNDBOT".

SER. NO. 86-507,954, FILED 1-20-2015.

MAYUR VAGHANI, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.